

Group III, claims 10 and 12 (when acetone oxime derivative is selected), drawn to oximes of aminoxy-cyclodextrin derivatives; and

Group IV, claims 11 and 15, drawn to derivatives of nucleotide or nucleoside pyrimidines or purines with aminoxy-cyclodextrins.

**For the purpose of examination of the present application, Applicants elect, with traverse, Group I, claims 1-7 and 12-14.**

Applicants submit that the Examiner is not using the correct standard in assessing unity of invention. Since the present application is a national stage PCT application the Examiner should be using the standards of unity of invention under MPEP 1893.03(d) and the PCT Administrative Instructions Annex B, Part 2, Examples Concerning Unity of Invention (a copy is attached hereto).

In the Examples found in Annex B, Part 2, Example 18, if there is a common structure and the different substituents in the Markush group do not change the utility then there is unity of invention. As such, Groups I and III should be reunited.

Furthermore, Group II should be reunited with Groups I and III according to Example 1 in Annex B, Part 2. Groups I and III are directed to the compound and Group II is directed to the method of making the compound. As such, Groups I, II and III should be reunited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$\$110.00 is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ms. Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachments: PCT Administrative Instructions Annex B, Part 2,  
Examples Concerning Unity of Invention, Examples 1  
and 18.

**[ANNEX B, CONTINUED]****PART 2****EXAMPLES CONCERNING UNITY OF INVENTION**

The application of the principles of unity of invention is illustrated by the following examples for guidance in particular cases.

**I. CLAIMS IN DIFFERENT CATEGORIES****Example 1**

Claim 1: A method of manufacturing chemical substance X.

Claim 2: Substance X.

Claim 3: The use of substance X as an insecticide.

Unity exists between claims 1, 2 and 3. The special technical feature common to all the claims is substance X.

**Example 2**

Claim 1: A process of manufacture comprising steps A and B.

Claim 2: Apparatus specifically designed for carrying out step A.

Claim 3: Apparatus specifically designed for carrying out step B.

Unity exists between claims 1 and 2 or between claims 1 and 3. There is no unity between claims 2 and 3 since there exists no common special technical feature between the two claims.

**Example 3**

Claim 1: A process for painting an article in which the paint contains a new rust inhibiting substance X including the steps of atomizing the paint using compressed air, electrostatically charging the atomized paint using a novel electrode arrangement A and directing the paint to the article.

Claim 2: A paint containing substance X.

Claim 3: An apparatus including electrode arrangement A.

Unity exists between claims 1 and 2 where the common special technical feature is the paint containing substance X or between claims 1 and 3 where the common special technical feature is the electrode arrangement A.

However, unity is lacking between claims 2 and 3 since there exists no common special technical feature between them.

**Example 4**

Claim 1: Use of a family of compounds X as insecticides.

Claim 2: Compound X<sub>1</sub> belonging to family X.

Provided X<sub>1</sub> has the insecticidal activity and the special technical feature in claim 1 is the insecticidal use, unity is present.

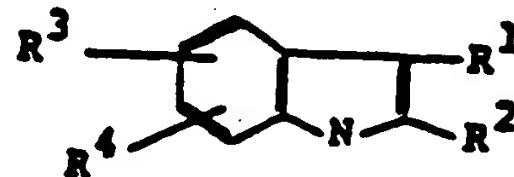
**ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT**

Expression of the DNA sequence in a host results in the production of a protein which is determined by the DNA sequence. The protein and the DNA sequence exhibit corresponding special technical features. Unity between claims 1 and 2 is accepted.

### **III. MARKUSH PRACTICE**

**Example 18— common structure:**

Claim 1: A compound of the formula:

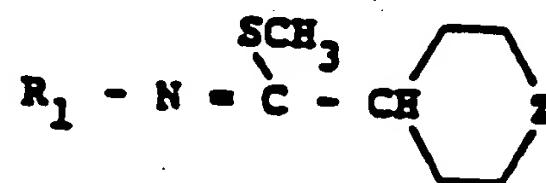


wherein  $R^1$  is selected from the group consisting of phenyl, pyridyl, thiazolyl, triazinyl, alkylthio, alkoxy, and methyl;  $R^2-R^4$  are methyl, benzyl, or phenyl. The compounds are useful as pharmaceuticals for the purpose of enhancing the capacity of the blood to absorb oxygen.

In this case the indolyl moiety is the significant structural element which is shared by all of the alternatives. Since all the claimed compounds are alleged to possess the same utility, unity is present.

**Example 19— common structure:**

Claim 1: A compound of the formula:



wherein  $R_1$  is selected from the group consisting of phenyl, pyridyl, thiazolyl, triazinyl, alkylthio, alkoxy, and methyl;  $Z$  is selected from the group consisting of oxygen (O), sulfur (S), imino (NH), and methylene (-CH<sub>2</sub>-). The compounds are alleged to be useful as pharmaceuticals for relieving lower back pain.

In this particular case the iminothioether group -N=C-SCH<sub>3</sub> linked to a six atom ring is the significant structural element which is shared by all the alternatives. Thus, since all the claimed compounds are alleged to possess the same use, unity would be present. A six membered heterocyclic ring would not have been of sufficient similarity to allow a Markush grouping exhibiting unity, absent some teaching of equivalence in the prior art.

**Example 20— common structure**

Claim 1: A compound of the formula:

